



Superior Court of California County of San Diego

☐ CENTRAL DIVISION
MADGE BRADLEY BUILDING
1409 4TH AVENUE
SAN DIEGO, CA 92101-3105
Probate Services
(619) 236-3781

☐ NORTH COUNTY DIVISION
325 S. MELROSE DRIVE
SUITE 1200
VISTA, CA 92081-6645
Probate Services
(760) 806-6150

SO YOU WANT TO BECOME GUARDIAN?

and you want to do it yourself.

In legal terms that is called "acting in pro per", or in "propria persona", and it means being your own attorney.

"Pro per" does not mean the court, the clerk's office, or probate examining will be your attorney.

Only a licensed attorney can give legal advice. The law prohibits non-attorneys from giving legal advice; our duties as probate examiners and clerks of the court do not leave us time to perform legal services; court policy forbids us from doing legal work for anyone. In other words, our jobs may depend on not helping you to be your own attorney.

Directions on filling out forms and which forms to use may constitute legal advice. Probate examining sympathizes with your desire to do the best for your proposed ward, and be cost efficient while doing it, but probate examining's collective experience best qualifies us to judge when requested information requires legal advice. Please do not insist we answer questions when we have stated we cannot do so.

However, the Superior Court has a general policy of public service, and in compliance, we have prepared this packet of procedural information, which may help you do your own legal work.

If you cannot accomplish your goal without an attorney, please see an attorney of your choice.

Probate Services

WHAT IS A GUARDIANSHIP?

A guardianship of the estate is a legal procedure where the court has granted the right to a certain person to take care of a minor's property. The minor's property can be used to pay legal expenses of the guardianship estate and therefore we will not cover those procedures in this packet.

A guardianship of the person is a legal procedure where the court gives parental rights and obligations over a minor to a person other than a parent. The minor is called a ward, and the adult appointed by the court is a guardian. When a guardian of the person is appointed, the natural parents no longer have the right to determine where the minor will live or how he or she will be educated and do not have the custody of their child. Instead, the guardian has those rights as well as the responsibility to determine medical treatment to be given the minor. A guardianship of the person continues until the minor marries or reaches the age of 18 or until the guardianship is terminated by the court which can only be after a petition by an interested party.

DO YOU NEED A GUARDIANSHIP?

You probably do if a minor is residing with you for a lengthy period and you are not the parent, and you have not been able to take care of all the minor's needs such as enrolling in school, receiving public aid when entitled, obtaining medical treatment, or adding the minor to your health insurance. You may not need a guardianship if the stay with you will be temporary, the parents have agreed to the stay and medical care can be obtained.

HOW DO YOU BECOME GUARDIAN OF THE PERSON?

- File a petition with the court;
- Give the required notices;
- Complete the investigation procedure;
- Go through a court hearing;
- File the written order and Letters of Guardianship.

FORMS

The procedure probably can be completed entirely with the use of court forms which are available in the Superior Court Clerks Offices indicated on the front of this packet. Generally, if you live in north county you will file in the Vista courthouse, but if you live south of Del Mar or in east county, file in San Diego.

The following forms are available for appointments:

Petition for Appointment of Guardian	GC-210
Declaration Under Uniform Child Custody Jurisdiction And Enforcement Act	FL-105/GC-120
Notice of Hearing - Guardianship	GC-20
Proof of Personal or Acknowledged Service (Guardianship)	PR-86
Order Directing or Waiving Investigation	PR-63
Instructions to Attorney	PR-61
Consent, Nomination and Waiver of Notice	GC-211
Attachment 15 to Petition for Appointment of Guardian	PR-13A
Order Appointing Guardian	GC-240
Letters of Guardianship	GC-250
Application for Waiver of Court Fees & Costs	CIV-19
Order on Application for Waiver of Fees & Costs	CIV-21
Application for Waiver or Reduction of Guardianship Investigation Fees	FCS-49
Order on Application for Waiver of Fees & Costs	CIV-23
Petition for Appointment of Temporary Guardian	GC-110
Order Appointing Temporary Guardian	GC-140
Notice of Reconsideration Hearing (Temporary Guardianship)	PR-17
Letters of Temporary Guardianship	GC-150
Order Dispensing With Notice	GC-21
Notice of Change of Address	CIV-68
Confidential Guardian Screening Form	GC-212
Duties of Guardian	GC248

Read the forms very carefully, several times.

Find a typewriter to use if at all possible. Careful printing is acceptable, but typing is better.

Fill in the form completely except where it is not applicable to your case.

Make extra copies of all your papers but always file originals with the court.

GENERAL PROCEDURE:

1. File your Petition for Appointment (GC-210), with the Declaration under UCCJEA (FL-105/GC-120) and any other necessary attachments, attached. You will need a filing fee of \$227.50 with the petition. The clerk will give your case a case number and a hearing date.

2. Submit a Notice of Hearing (GC-20) filled out except for the date of hearing. The clerk will fill in the date of hearing and return it to you with your copies. Whenever you wish copies returned to you by mail you must submit a self-addressed stamped envelope for that purpose.

3. File the Order Directing Investigation (PR-63) properly filled out. The clerk will submit it to the judge for signature.

4. Make an appointment with Family Court Services per Instructions to Attorneys (PR-61), if you are a relative, or with Department of Social Services, if you are not a relative. You must pay a \$800.00 fee for investigations by Family Court Services, at the time you make the first appointment. The fee for the Department of Social Services Investigation is \$708.00.

5. Have each parent personally served at least 15 days before the hearing with a copy of the Notice of Hearing and a copy of the Petition for Appointment. Have the service performed by a professional process server, (check the phone book) or by a person not a party to the action. Have that person fill out the proof of personal service. File it.

6. Have each relative named in the petition served also 15 days before the hearing, by regular mail, with a copy of the Notice of Hearing and a copy of the Petition. (Note: relatives in the 2nd degree are all grandparents and brothers and sisters of the minor. Name them even if deceased.) Have the mailing performed by a person not a party to the action (a friend or relative) and have that person fill out the Affidavit of Mailing on the back of the Notice of Hearing. File it.

7. Instead of notice to parents or relatives, each person may waive notice by signing the Consent and Waiver form (GC-211). File it.

8. Follow the directions of the investigating agency and keep your appointments. Send or take a copy of the Order Directing Investigation, the petition with attachments and any order waiving or reducing fees. Be sure to inform them of any change of address before completion of the investigation. Keep the court informed of any change of address by sending form CIV-68 to the court. A copy of that form is in this packet. The investigating agency will prepare their report and file it directly with the court.

9. You will receive a copy of the Probate Examiner's notes approximately one week before the hearing. Check with Probate Examining (ask for the Probate Examiner listed on your notes) to determine if everything is in order or if you must correct something. You may need to "continue" the hearing, that is, set it for a later date, or you may only need to attend the hearing to assure the judge you still want the guardianship.

10. After the hearing, if the court grants the petition, submit the written Order Appointing guardian (GC-240) to Probate Examining, along with Letters of Guardianship (GC-250). You may bring the order and letters to the hearing, wait until after court is finished, and the Probate Examiner in court will process them for you. The Letters are the evidence of your authority over your ward. You should probably ask for a certified copy with the issuance of the Letters. The cost is \$6.60 for each certification.

WAIVER OF FEES:

If you cannot afford to pay the filing fee you may apply for a waiver by filling out the Application for Waiver of Court Fees and Costs (CIV-19) and Order (CIV-21). If you cannot afford to pay the \$800.00 investigation fee, you may apply separately for a waiver or reduction of that fee also with the Application for Waiver or Reduction of Guardianship Investigation Fees (FCS-49) accompanied by the Order (CIV-23). File this application with Probate Examining. If you wish a reduction or waiver of the \$708.00 investigation fee of the Department of Social Services you may apply to that department per the Informational Notice attached to this packet.

MINOR OVER AGE 12:

If the minor is 12 or over;

1. The minor must file a nomination of the proposed guardian. (GC-211)
2. The minor must be personally served with Notice of Hearing and copy of the Petition, or waive the notice.

TEMPORARY GUARDIANSHIP:

An immediate appointment can be made of a temporary guardian pending the hearing on permanent guardian, under the following circumstances;

1. The Petition for Appointment of Guardian is filed at the same time;
2. There is an immediate and compelling need for appointment;
3. There is good cause to waive notice to the parents, or they consent and waive notice for the temporary guardianship.

If the above criteria can be met, the petition for temporary may be presented with the order, during ex parte hours to Probate Examining, who will review the matter. The petitioner will then have to see the judge who will determine if the temporary appointment is appropriate.

Ex parte hours in San Diego are Monday through Thursday from 3:00 to 3:30 p.m. Be in Probate Examining before 2:00. In Vista ex parte is at 12:30 pm on Monday or Wednesday.

The necessary documents for temporary guardianship include:

1. All the documents needed for the general guardianship.
2. The Petition for Appointment of Temporary Guardian (GC-110) with attachments to explain the necessity for guardianship and reason for no notice;
3. Waivers of notice if you have them.
4. Order Appointing Temporary Guardian (GC-140) which order expires at the hearing on the reconsideration.
5. Letters of Temporary Guardianship (GC-150).

A reconsideration of the temporary guardianship will be set within 30 days as required by Probate Code Section 2250(d). At least 15 days before that hearing you must give the same notices as will be required for the permanent guardianship, i.e., personal service of notice of hearing and a copy of the petition on the parents and minor over 12 and mailed notice of hearing and copy of the petition on the relatives. Remember to prepare a Notice of Hearing for the reconsideration date and to file your proofs of service. You must be at the hearing on reconsideration. Bring new temporary Letters of Guardianship to be issued after the hearing, to show extension of the temporary until the hearing on the permanent.

IF YOU NEED HELP:

Call an attorney of your choice.

Call Lawyers Referral Service in San Diego 231-8585 or in north county 758-4755.

Call Legal Aid in San Diego 262-5557 or in north county 722-1935 or 724-2740.

Call University of San Diego Law School Legal Clinic 260-4532.

Call Camp Pendleton Legal Office 725-6172.

Call Department of Social Services Foster Parent Program 967-4410.

Call San Diego Volunteer Lawyers 235-5656

Call North Island Legal Office 545-8144

If a form is not attached to this packet, obtain it from the Superior Court Clerk's Office.

Probate Examining phone numbers are: (619) 236-3781 in San Diego, (760) 806-6150

in Vista.

The San Diego Volunteer Lawyer Program conducts guardianship legal clinics to assist eligible persons who cannot afford attorney representation but want help in becoming legal guardians.

The guardianship legal clinic is held at the following times and places. Please call to verify that these are still correct.

San Diego: Tuesday and Thursday
3:00 p.m.
San Diego Volunteer Lawyer Program offices
Home Savings Tower
225 Broadway, Eighth Floor
San Diego, CA 92101
236-5656

Vista: Thursday
12:30 - 2:00 p.m.
Vista Courthouse – Domestic Violence Clinic
325 S. Melrose
Vista, CA 92081
591-0694

The following will help make your time more efficient at the clinic:

Make arrangements for child care if possible.

Spanish-speaking clients should bring their own interpreter.

Bring all names and addresses of minors, relatives and other people entitled to notice.